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EXCLUSIVE AGRICULTURAL ZONING

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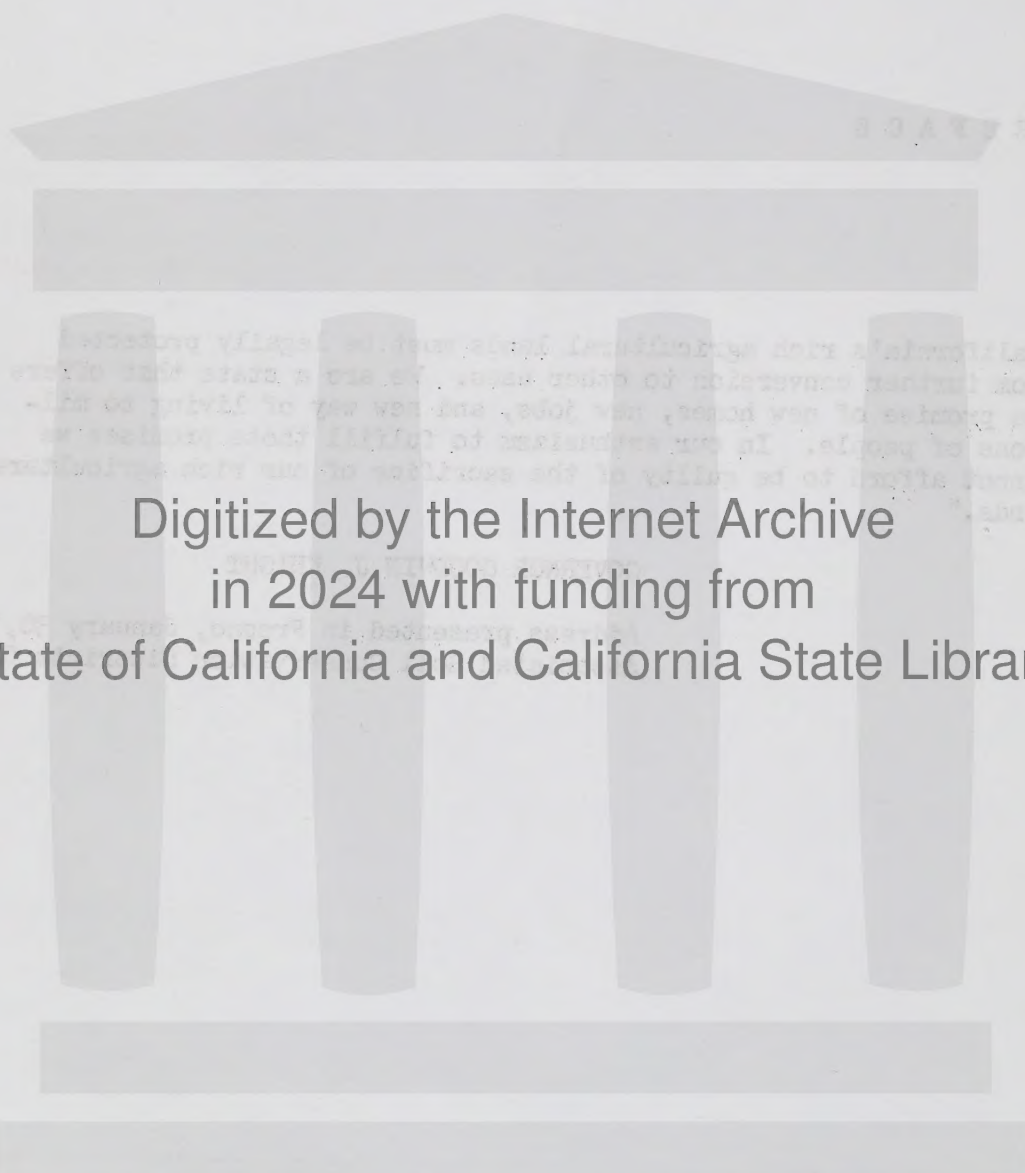
COUNTY OF SANTA CLARA PLANNING DEPARTMENT
February 1958

P R E F A C E

"California's rich agricultural lands must be legally protected from further conversion to other uses. We are a state that offers the promise of new homes, new jobs, and new way of living to millions of people. In our enthusiasm to fulfill those promises we cannot afford to be guilty of the sacrifice of our rich agricultural lands."

GOVERNOR GOODWIN J. KNIGHT

Address presented in Fresno, January 30, 1958
Associated Soil Conservation Districts Convention



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County of Santa Clara Planning Commission

A STATEMENT OF POLICY *
Exclusive Agricultural Zoning in Santa Clara County

Purpose Agricultural zoning is intended to protect prime agricultural soil and valid agricultural enterprises,

It is intended to be applied in accordance with a master plan of land use based on soil quality and other factors pertinent to the conservation of agriculture.

Its effect is to restrict and control the infiltration of urban development into areas generally devoted to agriculture so that the continuance of this activity may be assured for the foreseeable future.

Mandate Recognizing the special responsibility placed upon it by the newly enacted state legislation respecting agricultural exemption from city annexation and the instruction to assessors regarding the assessment for purposes of taxation of agriculturally zoned land, the Planning Commission of the County of Santa Clara, in its desire to discharge its duty fairly and equitably, does recommend to the Board of Supervisors a concurrence in the following basic policy to be followed in the establishment of future exclusive agricultural zones.

Policy 1. The extension of agricultural zones shall generally be upon the request of property owners who are engaged in valid agricultural operations and in accordance with a master plan of land use.

2. Failure to protest such zoning at the time of public hearing shall be deemed to constitute consent of the property owners involved.

* Approved by Planning Commission/Board of Supervisors Joint Study Session December 9, 1957.

- (Policy) 3. All applications and petitions filed for such zoning will receive careful and detailed consideration and study with respect to established criteria in order to determine whether the area qualifies as an exclusive agricultural zone.

This shall be accomplished by the technical staff of the Commission by office review, field inspection, and public hearing.

4. The establishment of exclusive agricultural zoning shall be designed in general to create large contiguous blocks of agricultural land, either by original petition or by the annexation of smaller holdings to existing blocks.
5. It is not the intention to zone land which is not predominantly used for agriculture as exclusive agriculture.
6. It is not the intention to use the exclusive agricultural zone to thwart the reasonable aspirations of cities for orderly growth.

County of Santa Clara Planning Commission

HERE ARE TEN FREQUENTLY ASKED QUESTIONS IN REGARD TO THE "GREENBELT" ZONING PROGRAM IN SANTA CLARA COUNTY

1. HOW WILL "GREENBELT" ZONING PROTECT ME?

"Greenbelt" zoning will protect farm areas by preventing the intrusion of subdivisions which require expensive roads, schools and utilities. Nearby subdivisions seriously limit normal farm practices such as poultry raising and insect spraying. "Greenbelt" zoning will protect farm areas from annexation to cities without the farmer's consent.

2. MUST MY LAND BE CLASS ONE SOIL TO QUALIFY?

Conservation of prime soil is an important part of the program but "Greenbelt" zoning has been designed to protect all types of agricultural enterprise including vineyards, poultry & livestock.

3. HOW MUCH ACREAGE IS NECESSARY?

No minimum acreage is specified but the larger the area the greater the protection. Presently established "Greenbelt" areas range in size from 100 acres (KADJEVICH -- apricots and prunes, vicinity of Mt. View) to 4,870 acres (BERRYESSA -- mixed orchard and row crops, between Milpitas and East Side San Jose). The nature of the agricultural use has a good deal to do with the reasonableness of a request for "greenbelting". Thus an intensive floriculture or poultry operation can perhaps justify a relative small acreage. A single parcel or a group of connected properties which add up to at least 100 acres would ordinarily make a good start for a "Greenbelt" zone.

4. MUST THE PROPERTIES BE CONTIGUOUS?

The entire county was zoned in 1938. "Greenbelting" involves changing from your present zoning classification to "A" (Exclusive Agricultural District) by typical rezoning action of the Planning Commission and Board of Supervisors with due public hearings. It is better for properties to be connected so that only a single action by the County is necessary to rezone the whole area under consideration.

5. MY FARM IS ZONED A-1. ISN'T THAT AGRICULTURAL?

Large areas of the county are still zoned A-1 which permits agricultural uses but offers practically no zoning protection. A-1 zoning automatically allows all residence uses up to and including 6 story apartments, all commercial uses, and most any other use including junk yards if a use permit is secured.

6. HOW DO I (MY NEIGHBORS AND I) GET STARTED?

The Board of Supervisors favors "Greenbelt" zoning and will accept petitions from a single property owner or a group of property owners requesting such zoning. The Board will transmit such request to the Planning Commission to set the necessary legal procedures in motion. Public hearings are required as in any other change of zone and the whole process may take as long as four or five months to complete, depending upon the problems involved. To get started you and your neighbors should write a letter or sign a petition to the Board of Supervisors requesting "Greenbelt" zoning. Sample petitions are available from the clerk of the Board of Supervisors, from the County Planning Department and from the Farm Bureau.

7. CAN I WITHDRAW FROM THE "GREENBELT" LATER ON?

Rezoning from "Greenbelt" to some other category of zone at a later date takes the same legal procedure, including public hearings, as is required to go "Greenbelt" in the first place. The County Zoning Ordinance provides that an owner of property has the right to apply for rezoning of his property at any time. The Planning Commission and the Board of Supervisors consider every request for change of zone on its merits.

8. IS THE "GREENBELT" ZONE BINDING FOR ANY PERIOD OF TIME?

Just like all other zoning in the county, "Greenbelt" zoning lasts until there is a change to some other category of zone. The County Planning Commission recently adopted a policy for review of greenbelt zones at the end of every five-year period if the property owners involved request it, so as to determine whether such zoning should be continued. No change can take place without full public hearings including all interested parties.

9. WILL "GREENBELT" ZONING KEEP MY TAX BILL DOWN?

It is true that "Greenbelt" zoning in a farming area will keep out subdivisions and hence the ~~added~~ tax load for schools, roads, utilities,

many special districts and the like. Because "Greenbelt" Zoning can keep your farm from being annexed by a city without your consent, the addition of a city tax can be prevented. As to your assessment, the zoning classification is only one of the many considerations used by the tax assessor in setting property assessments.

10. WHERE CAN I GET MORE INFORMATION ABOUT "GREENBELTING"?

The Santa Clara County Farm Bureau offices at 1092 North First Street, San Jose; and the County of Santa Clara Planning Department at Civic Center, First and Rosa Streets, San Jose, California.

* * *

County of Santa Clara Planning Commission

PROCEDURE FOR ESTABLISHING EXCLUSIVE AGRICULTURAL ZONING IN SANTA CLARA COUNTY

"GREENBELT" zoning means the establishment of "A" (Exclusive Agricultural) as the particular regulation for your property under the County Zoning Ordinance. This is just one of the various zones possible under the ordinance, such as R-1 zone for single residence property, C-1 zone for neighborhood commercial property, or M-1 for light industrial property. Since the entire County was zoned by 1938, the adoption of "Greenbelt" zoning now can be performed by the standard change of zone procedure. Santa Clara County's change of zone procedure follows the steps specified by State Law as outlined below. No change of zone can take place except through this complete process including full public hearings.

CHANGE OF ZONE PROCEDURE

1. Action by the Property Owner(s)
 - a. Petition by owner(s) of property requesting specific changes of zoning.
2. Action by County Planning Commission.
 - a. Proposing of amendment for specified zoning change and setting of public hearing thereon.
 - b. Public notification of such hearing.
 - c. Holding of public hearing.
 - d. Recommendation on zoning change to the Board of Supervisors.
3. Action by Board of Supervisors
 - a. Notification of public hearing before the Board of Supervisors.
 - b. Holding of such public hearing.
 - c. Final action of Board of Supervisors to adopt change of zone amendment as law.

If Exclusive "A" zoning has been established, it will continue in effect (just as with every other type of zone) until there may be some further change, through the same procedure once again.

County of Santa Clara Planning Commission

SECTION 44. REGULATIONS FOR "A" RESTRICTED AGRICULTURAL DISTRICTS*

Sec. 44.1 The following regulations shall apply in any "A"-Restricted Agricultural District:

Sec. 44.2 Uses Permitted: No building structure or land shall be used and no building or structure shall be hereafter erected, structurally altered or enlarged except for the following uses:

NURSERIES	BOTANICAL CONSERVATORY
GREENHOUSES	FIELD & TRUCK CROPS
ARBORETA	ORCHARDS & VINEYARDS
FOREST LAND	LANDSCAPE GARDENING
DRYING OF CROPS	STORAGE, bottling & wholesaling of wine
ANIMAL BREEDING	RIDING ACADEMIES & STABLES
APIARY	DAIRIES & PROCESSING DAIRY PRODUCTS
FUR FARM	POULTRY RAISING, EGGS & HATCHERIES
GUEST RANCH	HAY & STRAW SALE AND STORAGE
PASTURE	LIVE STOCK RANCHES

Sec. 44.3 Subject to the above provisions, uses customarily incident to any of the listed permitted uses may be maintained and specifically the following:

Sec. 44.3.1 Residence of the owner or owners or lessee or lessor of the land upon which the use is conducted.

Sec. 44.3.2 Residence of other members of the family of those mentioned in Section 44.3.1.

Sec. 44.3.3 Residence of bona fide employees of those mentioned in Section 44.3.1 and 44.3.2.

Sec. 44.3.4 Temporary farm labor camps incident and necessary to the gathering of the crops grown on the premises.

* Extract from County of Santa Clara Zoning Ordinance, NS-1200, as amended.

Sec. 44.3.5 For the purposes of the interpretation of the above provisions, the term "owner" or "lessee" shall be construed to include the following:

STOCKHOLDERS IN FAMILY CORPORATIONS
BENEFICIARIES OF FAMILY TRUSTS & ESTATES
OWNERS OF UNDIVIDED PARTIAL INTEREST IN THE FEE
JOINT TENANTS

Sec. 44.4 Conditional uses: The following conditional uses may be established in an "A"-Restricted Agricultural District subject to the securing of a Use Permit as provided in Section 35 of this Ordinance:

SCHOOL (elementary and High) and
CHURCH (except rescue mission or temporary revival);
PARK, PLAYGROUND OR COMMUNITY CENTER, owned and operated by governmental agency or a non-profit community organization; and
GOLF COURSE (except driving tee or range, miniature course and similar uses operated for commercial purposes);
PERMANENT FARM LABOR CAMP.

Sec. 44.5 Additional Regulations: No building shall hereafter be erected, nor shall any use of land be conducted, except the use of land for agricultural purposes, so that the same will be closer to the right-of-way line of any street than any Official Plan or any building line which has been established for such street by the Street and Highway Plan, or section thereof, of the Master Plan of the County, or than any future width line or building line which may be specified therefor by the provisions of the Ordinance; nor shall any building or structure hereafter be erected with less than the following minimum yards:

FRONT YARD -- 25 feet

SIDE YARD -- 6 feet

REAR YARD -- 25 feet, or 20% of the lot depth, whichever is less, but in no event shall any rear yard be less than twenty (20) feet in depth. Where any "A" zone is combined with any of the regulations set forth in SECTION 5 of this Ordinance, the specific regulations set forth in the appropriate section shall apply in lieu of the foregoing.

County of Santa Clara Planning Commission

GREENBELT EXCLUSION LAW
SECTION 35009, GOVERNMENT CODE, STATE OF CALIFORNIA

Any territory which is by consent of the owners zoned and restricted for agricultural purposes exclusively pursuant to a master plan for land use in any county shall not, while it is so zoned, be annexed to a city pursuant to Articles 2 or 5, without the consent of the owners of the land in the territory which is proposed to be annexed.

Territory so zoned shall not be considered unincorporated territory for purposes of Section 35158 and 35326.

This section shall apply only to counties which have, on or before December 31, 1954, adopted a master plan for land use which includes provision for the zoning and restricting of areas for exclusively agricultural purposes, and this section shall apply to any territory which is so zoned and restricted pursuant to such plan before or after such date.

This section shall not be construed and is not intended to prevent the annexation of roads, and territory so zoned shall not be included in computing the one-half mile limitation under Government Code Sections 35105.5 or 35304.5 as to any territory situated outside of the territory so zoned.

(Effective September 11, 1957)

AGRICULTURAL ASSESSMENT LAW
SECTION 402.5, GOVERNMENT CODE, STATE OF CALIFORNIA

In assessing property which is zoned and used exclusively for agricultural or recreational purposes, and as to which there is no reasonable probability of the removal or modification of the zoning restriction within the near future, the assessor shall consider no factors other than those relative to such use.

(Effective September 11, 1957)

* * *

STATE LAWS RELATING TO GREENBELT ZONING
ANALYSIS BY SANTA CLARA COUNTY COUNSEL*

NEW GREENBELT LEGISLATION

Assembly Bill No. 1676, now Chapter 1684, amends Section 35009 of the Government Code. This Section was first enacted in 1955. In its original form the law prohibited annexation of land which, by consent of the owners thereof, was zoned and restricted for agricultural purposes exclusively.

The law in its present amended form is as follows: (parts underlined indicate amendments)

"35009. Any territory which is by consent of the owners zoned and restricted for agricultural purposes exclusively pursuant to a master plan for land use in any county shall not, while it is so zoned, be annexed to a city pursuant to Articles 2 or 5, without the consent of the owners of the land in the territory which is proposed to be annexed.

"Territory so zoned shall not be considered unincorporated territory for purposes of Sections 35158 and 35326.

"This section shall apply only to counties which have, on or before December 31, 1954, adopted a master plan for land use which includes provision for the zoning and restricting of areas for exclusively agricultural purposes, and this section shall apply to any territory which is so zoned and restricted pursuant to such plan before or after such date.

"This section shall not be construed and is not intended to prevent the annexation of roads, and territory so zoned shall not be included in computing the one-half mile limitation under Government Code Sections 35105.5 or 35304.5 as to any territory situated outside of the territory so zoned."

The purpose and intent of the law remain the same. However, the new law makes certain substantive changes.

1. The first paragraph of Section 35009 originally provided that land zoned for agricultural purposes could not be annexed to a city "without consent of the owners of the land in the territory."

*Extract from letter to Board of Supervisors from Spencer M. Williams, County Counsel; July 25, 1957.

The quoted language apparently raised the question of whether or not all the owners of all the land must assent before annexation was possible. In any event this paragraph was changed to read: ". . . without the consent of the owners of the land in the territory which is proposed to be annexed." By adding the underlined words to the first paragraph, it now appears that some of the owners of land may consent to annexation and their lands may be annexed without affecting the remaining areas of agricultural zoning.

2. The second paragraph of the newly amended Section of 35009 provides that territory zoned for agricultural purposes exclusively is not to be considered as unincorporated area for the purposes of Section 35158 and 35326 of the Government Code.

These latter sections provide that territory shall not be annexed to a city, if, as a result of the annexation, unincorporated area is completely surrounded by the city.

The obvious effect of this amendment is to permit a city to annex territory completely surrounding a "greenbelt area", thus creating an "island" of unincorporated area within a city's boundaries.

3. Section 35009, as originally enacted, provided that it would be effective only until the ninety-first day after final adjournment of the 1957 Regular Session of the Legislature. This limitation has been removed.

4. The last change in Section 35009 pertains to Sections 35105.5 and 35304.5 of the Government Code relating to annexation of property abutting on a street or highway.

In a very general sense, Sections 35105.5 and 35304.5 ~~prohibit the annexation of a street and the territory~~ abutting on such street where the territory is more than one-half mile from the city. The one-half mile distance is measured along the "road strip" which connects the city boundary to a point on the territory which is nearest to the city.

The amendment relating to these Sections excludes from the computation of the one-half mile distance that part of the "road strip" included in the "greenbelt area." Thus, the aggregate distance of the "road strip" from the city's boundaries to the territory to be annexed may exceed one-half mile by reason of including the "road strip" in a "greenbelt area."

Section 35009 also provides that the zoning or restricting of territory for agricultural purposes is not intended to prevent the annexation of roads. In view of this provision (which was in the original law), it would appear that a city could annex the "road strip" through a greenbelt area as well as the one-half mile "road strip" referred to above.

TAX RELIEF FOR GREENBELTS

In addition to the above, an effort has been made to grant tax relief to property zoned exclusively for agricultural uses. SB 1637 (now Chapter 2049) provides as follows:

"Section 1. Section 402.5 is added to the Revenue and Taxation Code, to read:

"402.5 In assessing property which is zoned and used exclusively for agricultural or recreational purposes, and as to which there is no reasonable probability of the removal or modification of the zoning restriction within the near future, the assessor shall consider no factors other than those relative to such use."

In view of the "no reasonable probability" limitation and the obvious difficulties in attempting to determine its applicability to any given situation, we do not believe this section will be of much, if any, real benefit to the typical Santa Clara County agriculturist who seeks this protection; namely, the one who is being ringed by subdivisions and/or city annexations. In such instances, particularly in view of past experience, the assessor will find it difficult to say there is "no reasonable probability" that the agriculturist will not succumb to the overtures of the subdividers, the annexing city, or both.

EMERGENCY GREENBELTS

Section 65806, Government Code, State of California

"Adoption of interim ordinance prohibiting uses conflicting with proposed ordinance.

"If the planning commission, or the department of planning, in good faith, is conducting or intends to conduct studies within a reasonable time for the purpose of, or holding a hearing for the purpose of, or has held a hearing and has recommended to the legislative body the adoption of any zoning ordinance or amendment or addition thereto, or in the event that new territory may be annexed to a city, the legislative body to protect the public safety, health and welfare, may adopt, as an urgency measure, a temporary interim zoning ordinance prohibiting such and any other uses which may be in conflict with such zoning ordinance."

Since greenbelts are one phase of County zoning, it would appear that the County has ample authority to adopt interim agricultural zoning as an urgency measure. The validity of any such emergency zone will depend on the existence of facts sufficient to constitute the type of urgency specified in Section 65806. Normally, the courts will not go behind a declaration of an emergency by a governing body to substitute its own opinion as to whether an emergency did in fact exist. Such declarations are conclusive upon the courts (Davis v. County of Los Angeles 12 C2d 412) unless no declaration of facts is included in the ordinance showing the emergency to exist, or unless the facts stated are obviously insufficient to constitute an emergency. Accordingly, in considering each petition for emergency zoning, the Board of Supervisors must satisfy itself that a true urgency exists within the meaning of Section 65806.

* * *

A S T A T E M E N T O F P O L I C Y
RELATIVE TO AGRICULTURAL TAXATION BY ASSESSOR
OF SANTA CLARA COUNTY*

"The agricultural interests of this valley are faced with a very real and serious problem - a problem caused primarily by the rapid heterogeneous development of residential, commercial & industrial properties. The experts, who have studied population trends, tell us that the increased growth and development of Santa Clara County are a certainty. No one individual or any one group could or would prevent this growth and development.

"

"We know, therefore, that a change will take place in the use of much of our agricultural land. This change in use should be orderly and geared to an absorption rate which will benefit both industry and agriculture alike.

"The so-called "Greenbelts" in areas of economic transition cannot, by self-imposed restricted use, avoid the just imposition of taxes as set forth in the constitution and revenue laws of the State. The market value of these properties must be ascertained by the same tests as any other class of property. These tests of value assume that property is put to the highest and best use and are as follows: (1) replacement cost; (2) income analysis; and (3) sales analysis. "Greenbelts" in fringe or encroachment areas can, however, with the proper assistance from planning consultants, aid in the orderly transition of agricultural properties to other uses over a period of time, thereby maintaining a constant and uniform flow of value from one use to another in areas of considerable size."

I believe this statement clearly presents the position of this office.

*HAYDEN W. PITMAN, Assessor
County of Santa Clara
February 6, 1955

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